

**Thompson Wigdor & Gilly LLP** ATTORNEYS AND COUNSELORS AT LAW

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November 9, 2007

**VIA ECF**

Honorable Arlene R. Lindsay  
United States Magistrate Judge  
Long Island Federal Courthouse  
814 Federal Plaza  
Central Islip, New York 11722

Re. Summa v. Hofstra University – 07 cv 3307 (DRH/ARL)

Dear Judge Lindsay:

We represent Plaintiff Lauren Summa in the above referenced case. We write to request scheduling of a discovery conference pursuant to Fed. R. Civ. P. 16.

Defendant Hofstra University has indicated an intent to move to dismiss Plaintiff's state law claims, counts III and IV of the Complaint, before Judge Denis R. Hurley. Judge Hurley's briefing schedule for the motion to dismiss requires all papers to be filed with the Court on or before January 11, 2008. Considering the Court's briefing schedule on the motion to dismiss, discovery is not likely to commence until February 2008 at the very earliest on Plaintiff's federal claims under counts I and II of the Complaint.

As the Court is aware, in a collective action suit under the Fair Labor Standards Act (FLSA), the statute of limitations runs for each plaintiff until the plaintiff files a written consent opting into the suit. Signed consents do not relate back to the filing of the original complaint. Considering the fact that Defendant has not moved to dismiss Plaintiff's FLSA claims, the case will be proceeding on those claims regardless of the outcome of Defendant's motion. Plaintiff's collective action will continue to be compromised by the delay in proceedings since the statute of limitations continues to run on the many potential opt-in plaintiffs who have not yet been identified.

In light of Defendant Hofstra's failure to post adequate notice of rights under the FLSA, we anticipate a six year class period for the federal class. Class contact information is likely to grow stale with any delay considering the likelihood that much of our potential class involves former students no longer enrolled in the University.


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Honorable Arlene R. Lindsay  
November 9, 2007  
Page 2

In light of the likelihood of prejudice to Plaintiff's case, we respectfully request an early date for discovery conference so we may move forward with discovery and our application for conditional certification.

Defense counsel does not consent to our request for the commencement of discovery.

Respectfully submitted,



Douglas H. Wigdor

cc: Elise Bloom, Esq. (By ECF)